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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,581	10/721,581 11/24/2003		Obada Kayali	GRIFF-44923	5795
26252	7590	08/09/2005		EXAMINER	
		KELLEY, LLP	MARCANTONI, PAUL D		
6320 CANO SUITE 1650		NUE	ART UNIT	PAPER NUMBER	
WOODLAN	D HILLS	, CA 91367	1755		
		•		DATE MAILED: 08/09/2009	S

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/721,581	KAYALI ET AL.					
Office Action Summary	Examiner	Art Unit					
	Paul Marcantoni	1755					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a re y within the statutory minimum of thirty will apply and will expire SIX (6) MON , cause the application to become AB.	rply be timely filed r (30) days will be considered timely. IHS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 24 No.	· ·						
· ,—	·						
•	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)⊠ Claim(s) <u>1-22</u> is/are pending in the application.							
•	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
6)☐ Claim(s) is/are rejected.	Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.	Claim(s) is/are objected to.						
8) Claim(s) <u>1-22</u> are subject to restriction and/or of	election requirement.						
Application Papers							
9) The specification is objected to by the Examiner.							
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• • • • • • • • • • • • • • • • • • • •	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
·	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
·— _ ·	a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
	application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list	of the certified copies not	received.					
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview S	ummary (PTO-413)					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s	s)/Mail Date nformal Patent Application (PTO-152)					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	6) Other:						

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-19, drawn to a method of forming a shaped article of sintered fly ash, classified in class 264, subclass 603+.

II. Claims 20-22, drawn to a building element comprising sintered fly ash, classified in class 106, subclass Dig1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a foam insulation material, an aggregate for concrete for multiple uses for roadmaking, sidewalks, or any concrete usage requiring aggregate, decorative article, etc. and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Because these inventions are distinct for the reasons given above and have and serial acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Scott W. Kelley on 8/3/05 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The examiner can normally be reached on 4-10 Fridays off. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Marcantoni Primary Examiner Art Unit 1755